

Koenan, T

Norman C. Kleinberg
 Theodore V. H. Mayer
 William J. Beausoleil
 HUGHES HUBBARD & REED LLP
 One Battery Park Plaza
 New York, New York 10004-1482
 (212) 837-6000

USDC NY
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Paul F. Strain
 M. King Hill, III
 David J. Heubeck
 VENABLE LLP
 Two Hopkins Plaza, Suite 1800
 Baltimore, Maryland 21201
 (410) 244-7400

2008

Attorneys for Defendant Merck & Co., Inc.

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

IN RE:	:	
Fosamax Products Liability Litigation	:	1:06-md-1789 (JFK)
<hr style="border-top: 1px dashed black;"/>		07-cv-09542
<i>This Document Relates to:</i>	:	
Tristano v. Novartis Pharmaceuticals Corp.	:	
and Merck & Co., Inc.	:	
Case No. 2:07-cv-04481-SRC	:	

**STIPULATION AND ORDER EXTENDING TIME FOR MERCK & CO., INC. TO
 ANSWER, MOVE, OR OTHERWISE REPLY TO PLAINTIFF'S COMPLAINT**

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff Ella Tristano and Defendant Merck & Co., Inc. ("Merck"), through their respective undersigned counsel that Merck's time to Answer, Move or Otherwise Reply to plaintiff's complaint will be extended up to and including February 6, 2008:

1. On July 31, 2007, Plaintiff filed this class action case in the Superior Court of New Jersey, Middlesex County, against Merck and co-defendant Novartis

Pharmaceutical Corporation ("Novartis") based on alleged injuries she claims to have suffered as a result of her "being prescribed and injected with Novartis' drug Zometa and being prescribed and ingesting Merck's drug Fosamax," as described in the plaintiff's complaint, attached hereto as Exhibit A. Plaintiff also seeks a "Court-supervised Dental Monitoring Program" on behalf of "individuals who reside in New Jersey" and who took Zometa and/or Fosamax as described in Exhibit A.

2. Service of Process was effected on Merck on or after August 15, 2007.
3. After service of the Complaint on Merck, co-defendant Novartis removed this case to the District of New Jersey on September 17, 2007.
4. The initial period for Merck to Answer, Move or otherwise Reply expired on September 24, 2007, and Merck obtained a Clerk's extension of 15 days pursuant to District of New Jersey Local Civil Rule 6.1(b), extending the time to October 9, 2007.
5. On October 5, 2007, Merck filed a stipulation and proposed order, with plaintiff counsel's consent, in the District of New Jersey seeking an additional 60-day extension to Answer, Move or otherwise Reply to plaintiff's complaint on the grounds that this Court's ruling on class certification may affect the disposition of this case. The Stipulation and Order Extending Time to Answer, Move or Otherwise Reply attached hereto as Exhibit B.
6. On October 10, 2007, Magistrate Judge Claire C. Cecci entered the parties' Stipulation and Order, attached hereto as Exhibit C, thereby extending the time for Merck to respond to plaintiff's complaint until December 8, 2007.

7. On October 26, 2007, the claims in this action relating to Fosamax were transferred to this Court. Conditional Transfer Order No. 50 is attached hereto as Exhibit D.

8. On December 7, 2007, Your Honor granted an additional 30-day extension of time for Merck to Answer, Move or Otherwise Reply to plaintiff's complaint until January 7, 2008. See Exhibit E.

9. On January 3, 2008, Your Honor issued a Memorandum Opinion & Order (the "Order"), which denied class certification motions in three putative state-wide class action cases for medical monitoring. Given that Your Honor's class certification Order was entered four days before Merck's time to Answer, Move or Otherwise Reply to plaintiff's complaint and that the parties are in discussions regarding whether this case will proceed in light of Your Honor's Order, Merck respectfully seeks an additional 30-day extension to Answer, Move or Otherwise Reply to plaintiff's complaint to February 6, 2008.

10. Plaintiff consents to this request.

Dated: January 4, 2008

BEATIE AND OSBORN LLP

By Daniel Osborn

Daniel A. Osborn
521 Fifth Avenue, 34th Floor
New York, New York 10175
(212) 888-9000

Attorneys for Plaintiff

HUGHES HUBBARD & REED LLP

By Theodore V. H. Mayer

Theodore V. H. Mayer
One Battery Park Plaza
New York, New York 10004
(212) 837-6888

Attorneys for Defendant Merck & Co, Inc.

SO ORDERED

John F. Keenan 1/8/08

Hon. John F. Keenan